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ages arising out of an injury done to his automobile by reason of a highway being out of repair. The trial judge instructed the jury that an automobile was a carriage within the meaning of a statute of the state requiring that "highways * * * shall * * * be kept in repair at the expense of the city or town, * * * so that they may be reasonably safe and convenient for travelers, with their horses, teams and carriages, at all seasons," and that it was the duty of the defendant township, under that statute, "to keep its roads reasonably safe and convenient for automobiles, so that they might be protected." This instruction was, on appeal, held erroneous.

ELECTIONS—IRREGULARITIES IN BALLOTS.—A statute of Oklahoma (§ 2963, WILSON'S REV. AND ANN. ST., 1903) provides that whenever a question shall be submitted to popular vote, the election commissioners shall cause a brief statement of the same to be printed on the ballot and the words "yes" and "no" under the same, so that the elector may indicate his preference by stamping at the designated place in front of either word. Where a question was submitted to the electors of a certain municipality of that state as to whether it should incur indebtedness for the construction of public utilities, it appeared that the ballots issued by the officers of election were irregular in these respects: the words "yes" and "no" were not in the place provided for by the statute, and the question submitted was improperly stated to be "Shall the city bond itself for the construction of waterworks," instead of "Shall the city incur indebtedness for the re-equipping and making extensions on the existing waterworks." Held, these variances from the statute did not render the ballots invalid. *State ex rel Edwards v. Millar, Mayor, et al.* (1908), — Okla. —, 96 Pac. 747.

When looked at in the light of similar decisions (*State ex rel Brooks v. Fransham*, 19 Mont. 273; *Merrill v. Reed*, 75 Conn. 12; *McClelland v. Irwin*, 16 Okla. 612; *Truelsen v. City of Duluth*, 61 Minn. 48) this decision is an additional assurance that the purpose of these statutes is to prevent the use of any other than official ballots and not to condemn as invalid ballots which have been furnished to the electors by election officers, charged with that duty, for some oversight or error on their part. It results, then, that the courts will construe these statutes as directory merely. And, indeed, to do otherwise would in many cases defeat the very purpose for which they were enacted. For, as was indicated by Chief Justice ANDREWS in *Hirsh v. Wood*, 148 N. Y. 143, these statutory regulations are enacted to secure freedom of choice and to prevent fraud and not by technical obstructions to make the right of voting insecure and difficult. In the principal case we have an even more emphatic assertion of the same view. It is a positive and forcible vindication of the voters' right not to be disfranchised through such errors on the part of the election officers.